

## **REMARKS**

The Applicants respectfully request reconsideration in view of the following remarks and amendments. Claims 1, 2, and 10 are amended. Accordingly, claims 1-13 are pending in the application.

### **I. Claims Rejected Under 35 U.S.C. § 101**

Claims 1-13 are rejected under 35 U.S.C. § 101 (b) as being directed to non-statutory subject matter.

On page 2 of the Office Action, the Examiner asserted that it is unclear as to the type of data being received and how the data is received. In response, claim 1, as amended, recites the elements of “pulse locations of tracks 0, 1, 2, and 3 *included in the fixed codebook*” (emphasis added) and “using the focused search to encode the pulse locations.” The amendments indicate that the focused search of the fixed codebook results in encoding of the pulse locations included in the fixed codebook. As explained below, the claim recites elements that produce a useful, tangible, and concrete result.

In determining whether the claim is for a practical application, the focus is on whether *the final result* achieved by the claim is *useful, tangible, and concrete*. See Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, page 37 (citing State Street Bank & Trust Co. v. Signature Financial Group, 149 F.3d 1368 (Fed. Cir. 1998)). One of ordinary skill in the art would consider encoding pulse locations included in the fixed codebook to be a practical application related to a speech codec for Voice over Internet Protocol (VOIP) applications. See Specification, paragraph [0003]. Similarly, the Court in State Street held that claims involving the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constituted a practical application of a mathematical algorithm, formula, or calculation, because it produced a useful, concrete and tangible result (i.e., the final share price). See State Street, 149 F.3d at 1373-74; see also AT&T, 172 F.3d at 1358 (claims drawn to a long-distance telephone billing process containing mathematical algorithms were held patentable subject matter because the process used the algorithm to produce a useful, concrete, tangible result without preempting other uses of the mathematical principle.). Therefore, as a matter of law, because the claim is drawn to the practical application of encoding pulse locations included in the fixed codebook for VOIP, it can

be discerned that the claim produces a useful, concrete and tangible result. Thus, in view of at least these foregoing reasons, claim 1 is directed to statutory subject matter. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

Claims 2 and 10, as amended, recite analogous limitations to those recited in claim 1 and is directed to statutory subject matter for at least the same reasons. Claim 9 recites analogous elements to those recited in claim 2 and is directed to statutory subject matter for at least the same reasons. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 1, 2, 9, and 10, along with their respective dependent claims.

## **II. Claims Rejected Under 35 U.S.C. § 102**

Claims 1-5 and 9-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nahumi (US Patent No. 5,822,724) (hereinafter “Nahumi”). To establish an anticipation rejection the Examiner must show that the cited reference teaches each element of a claim.

In regard to § 102 rejection of independent claim 1, Nahumi fails to teach the elements of “calculating absolute values of correlation vectors of respective pulse locations of tracks 0, 1, 2, and 3.” Instead, Nahumi simply teaches a codebook search algorithm, wherein each vector containing a sample location of a pulse is represented by *positive and negative values* rather than the “absolute values of correlation vectors of respective pulse locations,” as recited in claim 1. See Nahumi, column 4, lines 56-61, and column 5, lines 16-25. As a result, Nahumi fails to teach the elements of “arranging the pulse locations in a descending order of the absolute values,” as recited in claim 1. Therefore, for at least these reasons, Nahumi fails to teach each element of claim 1. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

In regard to independent claims 2, 9, and 10, these claims include analogous limitations to those recited in claim 1. Therefore, for at least the reasons discussed in connection with claim 1, these claims are not anticipated by Nahumi. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 2, 9, and 10.

In regard dependent claims 3-5 and 11-13, these claims depend from base claims 2 and 10, respectively, and incorporate the limitations thereof. Therefore, for at least the reasons discussed in connection with claim 2, Nahumi fails to teach each element of claims 3-5 and 11-13. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 3-5 and 11-13.

### **III. Allowable Claims**

In regard dependent claims 6, 7, and 8, these claims depend from base claim 2 and incorporate the limitations thereof. The Applicants respectfully submit that these claims are in condition for allowance because they overcome the § 101 rejection as discussed above and the Examiner has not cited any prior art against the claims. Thus, such action is earnestly solicited at the Examiner's earliest convenience.

## **CONCLUSION**

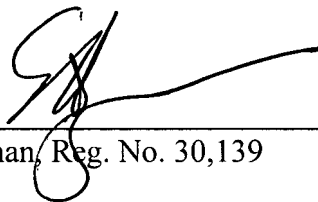
In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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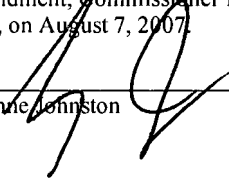
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### **CERTIFICATE OF MAILING:**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 7, 2007.

  
Suzanne Johnston

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August 7, 2007